

**UNITED STATES DISTRICT COURT
DISTRICT OF NEW HAMPSHIRE**

Sensa Verogna,

Plaintiff,

v.

Twitter, Inc.,

Defendant.

Case No. 1:20-cv-00536-SM

TWITTER, INC.'S MOTION TO STRIKE DOCUMENT 35

Defendant, Twitter, Inc. (“Twitter”), pursuant to Local Rules 7.1(e)(2) and 7.2(b), moves to strike Document 35 (the “Reply”), which is an unauthorized and overlength reply filed by Plaintiff Sensa Verogna (“Plaintiff”) in support of his Motion to Declare Twitter’s Network a Public Forum (the “Motion”). As grounds for this motion, Twitter states as follows:

First, Plaintiff’s Reply should be stricken because it was filed without leave of court. *See* LR 7.1(e)(2) (replies in support of non-dispositive motions are not permitted without leave of court). Plaintiff’s Motion to Declare Twitter’s Network a Public Forum is difficult to classify, as it is not permitted under the Federal Rules. *See* [Doc. 16]. But it is not dispositive. “A dispositive motion is one that extinguishes a party’s claim or defense.” *Office of Child Advocate v. Lindgren*, 296 F. Supp. 2d 178, 183 (D.R.I. 2004). Instead, Plaintiff’s Motion seeks to “afford Plaintiff relief from uncertainty or insecurity and not risk taking future undirected actions.” [Doc. 16, ¶ 2.] Indeed, it concedes that the underlying Motion is non-dispositive. [Doc. 35, ¶ 16 (“Plaintiff agrees that his latest motion for declaratory relief is not a motion for summary judgment and therefore not improper or premature at this stage of the litigation. . . . Without the

Courts answer, Plaintiff is left in the dark as to how to proceed with his Constitutional Claims as there are unanswered questions of law that need to be answered by a judge.”).]

Second, where leave is granted, non-dispositive replies cannot exceed five pages. *Id.* Plaintiff failed to obtain leave of court prior to filing his Reply, and it exceeds five pages. As a result, Twitter respectfully requests that the Court strike Document 35 for being both unauthorized and overlength. *See Zibolis-Sekella v. Ruehrwein*, No. 12-cv-228-JD, 2013 WL 4042423, at *1 (D.N.H. 2013) (striking reply brief filed without leave, pursuant to LR 7.1(e)(2)).

Twitter, through its undersigned counsel, sought Plaintiff’s concurrence to the relief sought through this motion, but Twitter did not receive such concurrence.

No memorandum of law is necessary because Twitter cites herein the authority in support of the relief it requests.

WHEREFORE, the Defendant, Twitter, Inc., respectfully requests that this Honorable Court:

- A. Enter an order striking Document 35 (the Reply); and
- B. Grant such other and further relief as the Court deems just.

Respectfully submitted,

Twitter, Inc.

By its attorneys,

ORR & RENO, PROFESSIONAL ASSOCIATION

Dated: July 15, 2020

By: /s/ Jonathan M. Eck
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CERTIFICATE OF SERVICE

I, Jonathan M. Eck, certify that on this date service of the foregoing document was made upon the Plaintiff, *pro se*, via email.

Dated: July 15, 2020

/s/ Jonathan M. Eck
Jonathan M. Eck, Esq. (NH Bar #17684)